

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

ARTHROCARE CORPORATION,

Plaintiff,

v.

SMITH & NEPHEW, INC.

Defendant.

C.A. No. 01-504-SLR

SMITH & NEPHEW, INC.,

Counterclaim Plaintiff,

v.

ARTHROCARE CORPORATION, AND
ETHICON, INC.,

Counterclaim Defendants.

JURY VERDICT

We, the jury, unanimously find as follows:

I. INFRINGEMENT OF ARTHROCARE'S PATENTS

A. The '536 Patent

Direct Infringement by Smith & Nephew of the '536 Patent

1. Do you find that Arthrocare has shown by a preponderance of the evidence that Smith & Nephew has directly infringed any of the following claims of the '536 patent with its Saphyre, ElectroBlade, or Control RF products? ("YES" answers to these questions are findings for ArthroCare. "NO" answers are findings for Smith & Nephew.)

Patent Number		Saphyre		ElectroBlade		Control RF	
'536	46	<input checked="" type="radio"/> YES	NO	<input checked="" type="radio"/> YES	NO	<input checked="" type="radio"/> YES	NO
'536	47	<input checked="" type="radio"/> YES	NO	<input checked="" type="radio"/> YES	NO	<input checked="" type="radio"/> YES	NO
'536	56	<input checked="" type="radio"/> YES	NO	<input checked="" type="radio"/> YES	NO	<input checked="" type="radio"/> YES	NO

Inducement of Infringement by Smith & Nephew

2. Do you find that Arthrocare has shown by a preponderance of the evidence that Smith & Nephew has induced infringement by others of any of the following claims of the '536 patent with its Saphyre, ElectroBlade, or Control RF products? ("YES" answers to these questions are findings for ArthroCare. "NO" answers are findings for Smith & Nephew.)

Patent Number		Saphyre		ElectroBlade		Control RF	
'536	46	<input checked="" type="radio"/> YES	NO	<input checked="" type="radio"/> YES	NO	<input checked="" type="radio"/> YES	NO
'536	47	<input checked="" type="radio"/> YES	NO	<input checked="" type="radio"/> YES	NO	<input checked="" type="radio"/> YES	NO
'536	56	<input checked="" type="radio"/> YES	NO	<input checked="" type="radio"/> YES	NO	<input checked="" type="radio"/> YES	NO

C. Contributory Infringement by Smith & Nephew

3. Do you find that Arthrocare has shown by a preponderance of the evidence that Smith & Nephew has contributed to the infringement any of the following claim(s) of the '536 patent with its Saphyre, ElectroBlade, or Control RF products? ("YES" answers to these questions are findings for ArthroCare. "NO" answers are findings for Smith & Nephew.)

Patent	Claim	Saphyre	ElectroBlade	Control RF
'536	46	YES NO	YES NO	YES NO
'536	47	YES NO	YES NO	YES NO
'536	56	YES NO	YES NO	YES NO

B. The '882 Patent

Validity of Arthr Care's Certificate of Correction for the '882 Patent

4. Do you find that Smith & Nephew has shown by clear and convincing evidence that the certificate of correction for claim 1 of the '882 patent is invalid? (A "YES" answer to this question is a finding for Smith & Nephew. A "NO" answer is a finding for ArthroCare.)

Validity of Certificate of Correction for the '882 Patent		
Patent	Claim	Answer
'882	1	YES <input checked="" type="radio"/> NO <input type="radio"/>

Answer questions 5-6 only if you have answered "NO" in question 4.

Inducement of Infringement by Smith & Nephew of the '882 Patent

5. Do you find that Arthrocare has shown by a preponderance of the evidence that Smith & Nephew has induced infringement by others of any of the following claims of the '882 patent with its Saphyre or Control RF products? ("YES" answers to these questions are findings for ArthroCare. "NO" answers are findings for Smith & Nephew.)

Inducement of Infringement by Smith & Nephew of the '882 Patent		Claim	Answer	Inducement of Infringement by ArthroCare of the '882 Patent	Claim	Answer
'882	13	<input checked="" type="radio"/> YES <input type="radio"/> NO				
'882	17	<input checked="" type="radio"/> YES <input type="radio"/> NO			<input checked="" type="radio"/> YES <input type="radio"/> NO	
'882	54		<input checked="" type="radio"/> YES <input type="radio"/> NO		<input checked="" type="radio"/> YES <input type="radio"/> NO	

Contributory Infringement by Smith & Nephew of the '882 Patent

6. Do you find that Arthrocare has shown by a preponderance of the evidence that Smith & Nephew has contributed to the infringement of any of the following claims of the '882 patent with its Saphyre or Control RF products? ("YES" answers to these questions are findings for ArthroCare. "NO" answers are findings for Smith & Nephew.)

Patent Claim Reference		Saphyre with Saphyre Electrode		Control RF		
'882	13	<input checked="" type="radio"/> YES	<input type="radio"/> NO			
'882	17	<input checked="" type="radio"/> YES	<input type="radio"/> NO	<input checked="" type="radio"/> YES	<input type="radio"/> NO	
'882	54		<input checked="" type="radio"/> YES	<input type="radio"/> NO	<input checked="" type="radio"/> YES	<input type="radio"/> NO

C. The '592 Patent

Inducement of Infringement by Smith & Nephew of the '592 Patent

7. Do you find that Arthrocare has shown by a preponderance of the evidence that Smith & Nephew has induced infringement by others of any of the following claims of the '592 patent with its Saphyre, ElectroBlade, or Control RF products? ("YES" answers to these questions are findings for ArthroCare. "NO" answers are findings for Smith & Nephew.)

REGULAR CLAIMS		SAPHYRE		ELECTROBLADE		CONTROL RF	
'592	1	<input checked="" type="radio"/> YES	NO	<input checked="" type="radio"/> YES	NO	<input checked="" type="radio"/> YES	NO
'592	3	<input checked="" type="radio"/> YES	NO	<input checked="" type="radio"/> YES	NO	<input checked="" type="radio"/> YES	NO
'592	4	<input checked="" type="radio"/> YES	NO	<input checked="" type="radio"/> YES	NO	<input checked="" type="radio"/> YES	NO
'592	11	<input checked="" type="radio"/> YES	NO	<input checked="" type="radio"/> YES	NO	<input checked="" type="radio"/> YES	NO
'592	21					<input checked="" type="radio"/> YES	NO
'592	23	<input checked="" type="radio"/> YES	NO	<input checked="" type="radio"/> YES	NO	<input checked="" type="radio"/> YES	NO
'592	26	<input checked="" type="radio"/> YES	NO	<input checked="" type="radio"/> YES	NO	<input checked="" type="radio"/> YES	NO
'592	27	<input checked="" type="radio"/> YES	NO	<input checked="" type="radio"/> YES	NO	<input checked="" type="radio"/> YES	NO
'592	32	<input checked="" type="radio"/> YES	NO	<input checked="" type="radio"/> YES	NO	<input checked="" type="radio"/> YES	NO
'592	42					<input checked="" type="radio"/> YES	NO

Contributory Infringement by Smith & Nephew of the '592 Patent

8. Do you find that Arthrocare has shown by a preponderance of the evidence that Smith & Nephew has contributed to the infringement of any of the following claims of the '592 patent with its Saphyre, ElectroBlade, or Control RF products? ("YES" answers to these questions are findings for ArthroCare. "NO" answers are findings for Smith & Nephew.)

Patent	Claim	Saphyre	ElectroBlade	Control RF
'592	1	YES NO	YES NO	YES NO
'592	3	YES NO	YES NO	YES NO
'592	4	YES NO	YES NO	YES NO
'592	11	YES NO	YES NO	YES NO
'592	21			YES NO
'592	23	YES NO	YES NO	YES NO
'592	26	YES NO	YES NO	YES NO
'592	27	YES NO	YES NO	YES NO
'592	32	YES NO	YES NO	YES NO
'592	42			YES NO

II. VALIDITY OF ARTHROCARE'S PATENTS

A. Anticipation of ArthroCare's Patents

9. Do you find that Smith & Nephew has shown by clear and convincing evidence that the following claims of the patents-in-suit are invalid due to anticipation? (A "YES" answer to this question is a finding for Smith & Nephew. A "NO" answer is a finding for ArthroCare.)

The '536 Patent

Anticipated	
Claim 46	YES <input checked="" type="radio"/> NO <input type="radio"/>
Claim 47	YES <input checked="" type="radio"/> NO <input type="radio"/>
Claim 56	YES <input checked="" type="radio"/> NO <input type="radio"/>

The '882 Patent

Anticipated	
Claim 13	YES <input checked="" type="radio"/> NO <input type="radio"/>
Claim 17	YES <input checked="" type="radio"/> NO <input type="radio"/>
Claim 54	YES <input checked="" type="radio"/> NO <input type="radio"/>

The '592 Patent

Anticipated	
Claim 1	YES <input checked="" type="radio"/> NO <input type="radio"/>
Claim 3	YES <input checked="" type="radio"/> NO <input type="radio"/>
Claim 4	YES <input checked="" type="radio"/> NO <input type="radio"/>
Claim 11	YES <input checked="" type="radio"/> NO <input type="radio"/>
Claim 21	YES <input checked="" type="radio"/> NO <input type="radio"/>
Claim 23	YES <input checked="" type="radio"/> NO <input type="radio"/>
Claim 26	YES <input checked="" type="radio"/> NO <input type="radio"/>
Claim 27	YES <input checked="" type="radio"/> NO <input type="radio"/>
Claim 32	YES <input checked="" type="radio"/> NO <input type="radio"/>
Claim 42	YES <input checked="" type="radio"/> NO <input type="radio"/>

D. Enablement of ArthroCare's Patent

10. Do you find that Smith & Nephew has shown by clear and convincing evidence that the following claims are invalid for lack of enablement? (A "YES" answer to this question is a finding for Smith & Nephew. A "NO" answer is a finding for ArthroCare.)

Patent	Claims	Enablement
'882	13, 17, 54	YES <input checked="" type="radio"/> NO <input type="radio"/>

Each Juror should sign the verdict form to reflect that a unanimous verdict has been reached.

Dated: May 12, 2003

Despina Adkins
Foreperson

Stacey Miranda

Christine M. Murray

Deon Hunter

Bernard H. Greene

Jeff Byers

Carroll House

John D. Lavel